

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION OF MEADOW LAKE)
WIND FARM IV LLC AND MEADOW)
LAKE WIND FARM V LLC FOR)
TRANSFER OF A PORTION OF)
MEADOW LAKE WIND FARM IV)
LLC'S FRANCHISE, WORKS, OR)
SYSTEM PURSUANT TO INDIANA)
CODE § 8-1-2-83 AND FOR CONTINUED)
DECLINATION OF THE)
COMMISSION'S JURISDICTION OVER)
THE PORTIONS OF THE POWER)
GENERATING FACILITY)
TRANSFERRED TO MEADOW LAKE)
WIND FARM V LLC)

CAUSE NO. 43876

APPROVED: SEP 15 2010

BY THE COMMISSION:

James D. Atterholt, Commissioner

David E. Veleta, Administrative Law Judge

On March 31, 2010, Joint Petitioners, Meadow Lake Wind Farm IV LLC ("Meadow Lake IV") and Meadow Lake Wind Farm V LLC ("Meadow Lake V") (Meadow Lake IV and Meadow Lake V, together, the "Joint Petitioners"), filed their Joint Petition with the Indiana Utility Regulatory Commission ("Commission"). In the Joint Petition, Joint Petitioners requested that the Commission approve the transfer of certain assets and obligations from Meadow Lake IV to Meadow Lake V and that the Commission determine that the same provisions of declination of jurisdiction provided to Meadow Lake IV in the November 24, 2009 Order issued in Cause No. 43758 (the "Declination Order") also be provided to Meadow Lake V with respect to the assets and obligations transferred to it.

Pursuant to notice as provided by law, proof of which was incorporated into the record, an evidentiary hearing in this Cause was held in Room 224, PNC Center, 101 W. Washington Street, Indianapolis, Indiana, at 9:30 a.m. on August 17, 2010. Joint Petitioners and the OUCC appeared and participated at the hearing. No members of the general public appeared.

Based upon the evidence and applicable law, and being duly advised in the premises, the Commission now finds as follows:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the public hearing in this Cause was given and published by the Commission. In the Declination Order, the Commission determined that Meadow Lake IV was a "public utility" under Indiana Code § 8-1-2.5-2. However, pursuant to Indiana Code § 8-1-2.5-5, the Commission determined that it was in the public interest to decline to exercise its jurisdiction over Meadow Lake IV, with the

exception of a few limited provisions that are detailed in the Declination Order. The Commission has jurisdiction over Joint Petitioners and the subject matter of this Cause.

2. Joint Petitioners' Characteristics. Meadow Lake IV is a limited liability company duly organized and existing under the laws of the State of Delaware. Meadow Lake IV's principal place of business is at 808 Travis Street, Suite 700, Houston, Texas 77002. Meadow Lake IV's sole member is Horizon Wind Energy LLC ("Horizon"). Horizon is a limited liability company existing under the laws of the State of Delaware with its principal place of business at 808 Travis Street, Suite 700, Houston, Texas 77002 and with offices in California, Colorado, Illinois, Iowa, Kansas, Maine, Minnesota, New York, Oklahoma, Ohio, Oregon and Washington. Additionally, Horizon has a local office at 129 E. Market St., Indianapolis, Indiana 46204. Horizon's expertise includes the development, construction and operation of wind power electric generating facilities. The ultimate parent of Meadow Lake IV and Horizon is EDP - Energias de Portugal, S.A. ("EDP"), the largest utility in Portugal.

Meadow Lake V is a limited liability company duly organized and existing under the laws of the State of Delaware. Like Meadow Lake IV, Meadow Lake V's principal place of business is at 808 Travis Street, Suite 700, Houston, Texas 77002, and Meadow Lake V's sole member is Horizon.

3. Relief Requested. Joint Petitioners request authority to transfer to Meadow Lake V the operating and construction authority and other rights and obligations, including reporting obligations under the Declination Order related to the Meadow Lake Wind Farm and assets for 100.8 MW of the Meadow Lake Wind Farm ("Phase V"). Meadow Lake IV will retain the operating and construction authority and all other rights and obligations under the Declination Order for 98.7 MW of the Meadow Lake Wind Farm ("Phase IV").

Joint Petitioners request that the Commission make the required determinations to allow Meadow Lake V to succeed to Meadow Lake IV's declination of jurisdiction and to other rights, powers and privileges of an Indiana public utility as provided in the Declination Order with respect to the construction, ownership and operation of Phase V by Meadow Lake V. Meadow Lake V also requested, to the extent necessary, that the relief apply to an expanded footprint as depicted in Exhibit BW-1.

4. Joint Petitioners' Evidence. Joint Petitioners pre-filed the testimony and exhibits of Bill Whitlock, who is employed by Horizon and has been delegated responsibility for the development of the Meadow Lake Wind Farm by Horizon. Mr. Whitlock is the Director of Development for the Great Lakes Region for Horizon and oversees the development of wind projects in Illinois, Ohio, Indiana and Michigan.

Mr. Whitlock testified that the transfer is necessary so that the proper regulatory authority can be placed within the proper project company for each phase. Mr. Whitlock testified that the decision to delay a portion of the original Phase IV approved in the Declination Order was due in part to Horizon's diversion of resources to other states. Mr. Whitlock added that although market entry has been exceptionally smooth in Indiana, the market for the purchase of renewable energy has not developed as anticipated. He testified that Horizon has a 400 MW merchant

position in Indiana at this time, and continuing to add to that exposure is not financially viable at this time. Mr. Whitlock stated that Horizon still plans to fully develop the Meadow Lake Wind Farm.

Mr. Whitlock explained how the Meadow Lake Wind Farm would be developed. He testified that Meadow Lake V would be the northern half of the original Meadow Lake IV. He also added that the Phase V project area was expanded to accommodate a turbine layout that avoids areas with above-ground gas wellheads. He attached a preliminary site plan for Phase V to his testimony as Exhibit BW-2. Mr. Whitlock noted that the additional areas to be included in the footprint fall in the same zoning districts as the previous footprint. Additionally, all zoning approvals and local permits necessary for Meadow Lake V will apply to these areas. Mr. Whitlock added that these areas are contiguous with the original Phase IV preliminary site plan.

Mr. Whitlock further testified that Meadow Lake V has the technical, managerial and financial ability to construct, own and operate Meadow Lake V. Meadow Lake V is a subsidiary of Horizon which is an indirect subsidiary of EDP. As with the other phases of the Meadow Lake Wind Farm, Horizon will provide all of the necessary financial, technical and managerial expertise to construct and operate Meadow Lake V.

5. OUCC's Evidence. Mr. Ronald Keen, a Senior Analyst within the Resource Planning, Emerging Technologies, and Telecommunications Division briefly described the Joint Petitioners and their request to transfer certain assets and liabilities relating from Meadow Lake IV to Meadow Lake V. Mr. Keen testified in support of the Joint Petitioners' request that the Commission allow the transfer.

Mr. Keen testified that the OUCC believes the Commission should not exercise jurisdiction because the Commission found that Meadow Lake IV had the requisite technical, financial, and managerial capabilities to manage Phase IV in Cause No. 43758. Additionally, Mr. Keen testified that he continues to believe that the Meadow Lake Wind Farm project is in the public interest.

Mr. Keen testified that the Meadow Lake Wind Farm serves the public interest because it will offer the consumer a renewable, emission-free resource which will have a positive impact on the state's economy through job creation and boosts to the local economy. Finally, Mr. Keen testified that the OUCC recommends the Commission approve the Joint Petitioners' request.

6. Commission Discussion and Findings. Joint Petitioners in their Verified Petition have requested that we approve the proposed transfer of certain assets and liabilities associated with Meadow Lake IV, find that Meadow Lake V possesses the technical, managerial, and financial capability to construct, own, operate and finance a portion of Meadow Lake IV and thus meets the criteria of the declination of jurisdiction outlined in the Commission's Order in Cause No. 43758 and find that Meadow Lake V meets the criteria for succeeding to and succeeds to all of the terms and conditions of the Commission's previous order of declination of jurisdiction with respect to that portion of Meadow Lake IV. Meadow Lake V also requested that the declination of jurisdiction also apply to its activities in the expanded footprint of Phase V.

In the Declination Order, we found that Meadow Lake IV was a “public utility” within the meaning of Indiana Code § 8-1-2-1, but, pursuant to Indiana Code § 8-1-2.5-5, determined that it was in the public interest to decline to exercise our jurisdiction over Meadow Lake IV with the exception of a few limited provisions that are detailed in the Order in Cause No. 43758. Among the exceptions was a paragraph entitled “Transfers of Ownership.” In that paragraph we stated “a third-party owner and operator may succeed to Petitioner’s declination of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Facility; and (2) the successor agrees to the same terms and conditions imposed on Petitioner as set forth in this Order.”

We will first examine the technical, financial, and managerial capability of Meadow Lake V after the transfer. We find that Meadow Lake V, as a subsidiary of Horizon, has the requisite technical, financial, and managerial capability to operate a portion of Phase IV of the Wind Farm. In his testimony, Mr. Whitlock explains that Meadow Lake V will be operated in essentially the same manner after the transfer of assets and liabilities from Meadow Lake IV to Meadow Lake V. Mr. Whitlock described Horizon’s extensive technical and managerial experience in operating electrical generation facilities. Additionally, he provided a copy of the EDP’s 2009 Annual Report that demonstrates the financial abilities of EDP and its subsidiary, Horizon. Therefore, we find that Meadow Lake V possesses the necessary technical, financial, and managerial capability to own and operate Phase V.

Mr. Whitlock also explained that, after the transfer of certain assets related to a portion of Meadow Lake IV to Meadow Lake V, it will continue to abide by the terms and conditions of the Declination Order. Additionally, Mr. Whitlock testified that all zoning approvals and local permits necessary for Meadow Lake V will apply to the additional footprint areas outlined in Exhibit BW-2. The Commission finds that the transfer proposed herein should be approved and that Meadow Lake V should be permitted to continue to operate under the declination of jurisdiction granted in the Declination Order. We further find that nothing in the Joint Petition in this Cause alters the declination granted to Meadow Lake IV in Cause No. 43758.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Meadow Lake IV is authorized to transfer a portion of its franchise, works or system, including but not the privileges, construction, operating and financing authority and reporting obligations under the Declination Order to Meadow Lake V. Meadow Lake IV shall maintain its declination of jurisdiction with respect to Phase IV. Meadow Lake IV shall continue its reporting and other obligations with respect to Phase IV as required by the Declination Order under Cause No. 43758.

2. Meadow Lake V has the technical, managerial, and financial capability to construct, own, operate, and finance Meadow Lake V and complies, or shall comply, with the criteria described in the Declination Order for continued declination of jurisdiction over Meadow Lake IV.

3. Upon completion of the transfer of a portion of Meadow Lake IV, Meadow Lake V shall succeed to all of the terms and conditions of the Declination Order.

4. Meadow Lake V shall comply fully with the terms of this Order and submit to the Commission all information required by the terms of this Order.

5. This Order shall be effective on and after the date of its approval.

HARDY, ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: SEP 15 2010

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

A handwritten signature in cursive script that reads "Brenda A. Howe". The signature is written in dark ink and is positioned above the printed name and title.

**Brenda A. Howe
Secretary to the Commission**